UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,755	12/28/2001	David Harriman	42390.P13766	3565

7590 09/09/2005

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER	
PHILPOTT, JUSTIN M	
ART UNIT	**PAPER NUMBER**
2665	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/040,755	HARRIMAN, DAVID	
	Examiner	Art Unit	
	Justin M. Philpott	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 August 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5,6,10,11 and 15-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5,6,10,11,15 and 19-22* is/are rejected.

7)☒ Claim(s) *16-18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the newly amended claims 1, 6 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 5, 6, 10, 11, 15 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,515,967 to Wei et al. in view of U.S. Patent No. 4,058,672 to Crager et al., further in view of U.S. Patent Application Publication No. US 2002/0122411 A1 by Zimmerman et al.

Regarding claims 1, 6 and 11, Wei teaches an apparatus comprising a data path output unit to output a packet header of a packet relating to a message request transaction with the packet header including: a format field (e.g., combination of 601 and 615 in FIG. 6) to indicate the packet header (e.g., version 601) and further to specify whether the packet is to include data (e.g., MRM message length 615 indicates the length of the message area 511 comprising data, or the amount of data, which implicitly indicates whether the message area includes any data), a subset of a type field (e.g., at least one bit of type 603) to indicate the packet relates to a message

request transaction (e.g., see col. 7, lines 38-45), and a message group sub-field (e.g., within MRM sequence number 625) to indicate the packet is associated with one of a plurality of message groups (e.g., see col. 8, lines 8-35 wherein the sequence number corresponds to a specific one of a plurality of message groups G1, G2, etc.). Wei also teaches the packet header includes a message code field to indicate message type (e.g., code 605, see col. 7, lines 45-47).

However, Wei may not specifically disclose the format field indicates the length of the packet header.

Crager teaches various features of packet communications for providing improved capability for packet communications (e.g., see col. 3, line 65 – col. 5, line 53), and specifically, teaches a format field (e.g., Format Field, col. 44, line 45) which indicates the length of the packet header (e.g., header length, col. 44, line 50) (see col. 44, lines 44-50). Further, the teachings of Crager provide features for improved capability for packet communications (e.g., see col. 3, line 65 – col. 5, line 53). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the packet communication teachings of Crager to the packet communication apparatus of Wei in order to provide features for improved capability for packet communications.

However, Wei in view of Crager may not specifically disclose a group in a header comprises one or more message types, and a message field to include a message to implement the one or more message types.

Zimmerman also teaches packet communications, and specifically teaches a group in a header comprises one or more message types (e.g., see paragraphs 0009 regarding message type), and a message field (e.g., message fields 312 and 314, see FIG. 3 and paragraph 0044)

includes a message (e.g., PHY control messages and MAC control messages) to implement the one or more message types (e.g., see paragraphs 0044-0075). Further, the teachings of Zimmerman provide reduced bandwidth usage and reduced CPU time for base station and CPE (e.g., see paragraph 0008). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the packet communication teachings of Zimmerman to the packet communication method of Wei in view of Crager in order to reduce bandwidth usage and CPU time for base station and CPE.

Regarding claims 5, 10 and 15, Wei teaches the message group sub-field (e.g., within MRM sequence number 625) includes bit(s) of: a type field (e.g., see col. 8, lines 9-15 regarding identifying the MRM message comprising sender/receiver requests, etc.), and an extended type field (e.g., see col. 8, lines 24-27 regarding the sequence number identifying specifically which "request" is responsible). While Wei may not specifically disclose the message group sub-field is exactly three-bits comprising one bit from the type field and two bits from the extended type field, it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Appellant. In re Mason, 87 F.2d 370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1955); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to construct the message group sub-field with three-bits comprising

one bit from the type field and two bits from the extended type field since it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value.

Regarding claims 19, 21 and 22, Zimmerman teaches a plurality of message group comprises a power management message group to include one or more power management message types (e.g., see paragraphs 0029, 0030, 0055, 0062 and claims 8 and 20). As discussed above, the teachings of Zimmerman provide reduced bandwidth usage and reduced CPU time for base station and CPE (e.g., see paragraph 0008). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the packet communication teachings of Zimmerman to the packet communication method of Wei in view of Crager in order to reduce bandwidth usage and CPU time for base station and CPE.

Regarding claim 20, Crager teaches a plurality of message groups comprises an interrupt signaling message group to include one or more interrupt signal message types (e.g., see col. 11, line 12 – col. 12, line 31; col. 14, line 35 – col. 15, line 23; col. 16, line 49 – col. 17, line 7; and col. 17, line 61 – col. 19, line 32). As discussed above, the teachings of Crager provide features for improved capability for packet communications (e.g., see col. 3, line 65 – col. 5, line 53). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the packet communication teachings of Crager to the packet communication apparatus of Wei in order to provide features for improved capability for packet communications.

Allowable Subject Matter

4. Claims 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: claims 16-18 recite the following limitations which, in combination with the limitations of claim 1, were not found in a search of related prior art: a message implementing one or more message types including at least one message selected from the group consisting of a message to unlock a device, a message to reset a device, a message to indicate correctable error condition, a message to indicate an uncorrectable error condition, a message to indicate a fatal error condition, a message to report a bad request packet, and a message to emulate an interrupt signal.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Justin M Philpott

ALPUS H. HSU
PRIMARY EXAMINER